

FILED

MAY 27 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION

*JP*  
CLERK

\*\*\*\*\*

UNITED STATES OF AMERICA,

\* CR 03-30103

Plaintiff,

-vs-

PAVIT VIT XAYPHANTHO,

Defendant.

\* ORDER AND OPINION ON  
\* MOTION FOR COPIES OF DOCUMENTS

\*\*\*\*\*

Defendant pleaded guilty to conspiracy to distribute methamphetamine and was sentenced to 125 months imprisonment on August 30, 2004. He did not appeal his conviction or sentence.

Defendant has filed a motion (Doc. 224) for copies of his docket sheet, certain docket entries, transcripts, and discovery material. Pursuant to Rule 6 of the Rules Governing § 2255 Proceedings, a petitioner may invoke the discovery process with leave of Court. However, there is no § 2255 proceeding pending. Defendant has until August 29, 2005, within which to file a § 2255 motion. 28 U.S.C. § 2255. Defendant's criminal case is closed. Therefore, this Court has no jurisdiction to rule on defendant's motion. United States v. Gleason, 753 F.2d 83, 85 (8th Cir. 1985). Defendant may contact the Clerk's office to make arrangements to prepay for copies of his file. There were no transcripts prepared of his plea or sentencing hearings.

IT IS ORDERED that defendant's motion (Doc. 224) for copies is denied.

Dated this 27<sup>th</sup> day of May, 2005.

BY THE COURT:

*Charles B. Kornmann*  
CHARLES B. KORNMANN  
U.S. District Judge

ATTEST:

JOSEPH HAAS, CLERK

BY: *Brenda L. Peepke*  
DEPUTY  
(SEAL)